



1040 2nd Street, Suite 201  
 Sturgis, SD 57785  
[www.sturgismotorcyclerrally.com](http://www.sturgismotorcyclerrally.com)

Voice: (605) 720.0800  
 Fax: (605) 720.0801  
[brendav@sturgisgov.com](mailto:brendav@sturgisgov.com)

## Council Report Presentation

|               |  |
|---------------|--|
| Meeting Date: | November 4, 2013   |
| Agenda Item:  | Request for use of city property received from Scott Peterson Motors for placement of a sign on Exit 32. |
| Prepared By:  | Brenda Vasknetz  |

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| Request Information:                                 | Scott Peterson Motors has requested to use city property located at Exit 32 to place a 4' x 8' sign on the southeast corner on the west side to identify Scott Peterson Motors Parts and Service location. Due to the recent blizzard and the damage done to their existing building they were forced to relocate the parts and service to another location at 940 Dickson Road. |
| Cost, City Services and Labor requested involve the: | None   |
| Estimated Budget Impact:                             | None   |

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| Staff Recommendation: | Is approval of the request as it benefits a local business by bringing customers to their business. |
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| Department Head Approval: | <u>Brenda Vasknetz, Director</u> |
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| Approved: | <u>Dan Ainslie</u><br>Daniel Ainslie, City Manager |
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## REQUEST FOR USE OF CITY PROPERTY

Complete and return this form to the City Rally & Events Office  
1040 2<sup>nd</sup> Street, Sturgis, SD 57785 (605) 720-0800

Event / Activity Name: Scott Peterson Motors - 940 DICKSON Rd.

Starting Time: ASAP am/pm on \_\_\_\_\_ Ending Time: \_\_\_\_\_ am/pm on 10/14

Address / Location: West Lot on Exit 32

Organization: Scott Peterson Motors Contact person: Scott Peterson

Phone number (daytime): 347-3662 Phone number (cell): 641-7268

Email: scott@scottpetersonmotors.com

Event/activity: Describe fully and how the event provides financial, educational, and/or cultural benefits to the public:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

City property and/or Right-of-Way closure(s) being requested: South/East corner of City's Exit 32 lot on west side

### Notification of nearby residents:

Is event to be held in or adjacent to residence or business property? Yes \_\_\_ No \_\_\_

☐ If yes, written notification must be given to residents and businesses within 200 feet of the event.

☐ If notification is required, attach a copy of the written notification. Date of notification: \_\_\_\_\_

Electrical requirements, if any: N/A

Amplified sound? Yes \_\_\_ No X All noise that would disturb the peace, quiet and comfort of neighboring inhabitants must end no later than 2:00 a.m. and may not begin earlier than 8:00 a.m.

Safety and Security: Describe security and/or safety provisions: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Alcohol: Will alcohol be sold, served, or present? Yes \_\_\_ No X

☐ If necessary, provide a copy of the Special Events Liquor License.

☐ If yes, attach plan to comply with all state liquor laws (addressing site access, security, etc.)

☐ Police presence will be required by the direction of the Chief of Police. (May incur additional costs)

Liability Insurance: Coverage amount: \$ \_\_\_\_\_ (Minimum of \$1,000,000 general liability)

☐ Attach a current copy of the certificate of insurance listing carrier, amount of coverage, and City as "Additional Insured".

Health and Sanitation: Describe process to collect all trash and garbage generated by the event: N/A

Event Equipment: Do you request tents, picnic tables, photo towers, or other City equipment? Yes \_\_\_ No X

☐ If yes, describe needs. \_\_\_\_\_

- Closure of Right-of-Way(s):** Do you request a street closure? Yes ☐ No ☒
- ☐ If yes, which right-of-ways? \_\_\_\_\_
- ☐ When will the public right-of-way be reopened? Date: \_\_\_\_\_ Time: \_\_\_\_\_
- ☐ Attach Street Closure Request Form to this application. *There is a \$50 fee. (Cash and check accepted)*

Describe signage and/or traffic controls that will be used to ensure public safety from traffic: 4x8 Parts/Service sign


- Do you request barricades, fencing, or traffic cones? Yes ☐ No ☒
- ☐ If yes, contact the Street Department at 347-3916 for availability and to reserve. A security deposit may be required.
- *Arrangements to pick up and return such equipment are made with the Streets Department. Applicant will ensure that all equipment is returned in the same condition as provided.*

- Sales:** Will you or your vendors be selling merchandise? Yes ☐ No ☒
- ☐ If yes, applicant (and all vendors) must demonstrate ability to comply with all state sales tax laws and will be responsible for their own security.

The undersigned acknowledges that the requested area must be cleaned and restored to its original appearance and the same condition at a time and date as determined by the City Manager (with input from the applicant). This includes removal of traffic controls, trash and garbage containers, portable restrooms, temporary structures, etc.

The undersigned acknowledges receipt it will comply with the City's General Nuisance Ordinance (Title 12), Offenses and Regulation (Title 13), and any other applicable City ordinance. Ordinances can be found online at [www.sturgis-sd.gov](http://www.sturgis-sd.gov).

The undersigned further agrees to be personally responsible for the provisions required thereunder, including, without limitation, collection of trash, security and sanitary facilities, return of City property, and shall indemnify and hold harmless the City from failure to follow said policies.

Signature of Applicant: 

Date: 10/29/13

**For administrative use only:**

Applicable Fees and/or Deposits: \$ \_\_\_\_\_ (Check Cash) Paid on: \_\_\_\_\_

| Department   | Signature | Date | Approve | Deny | N/A |
|--------------|-----------|------|---------|------|-----|
| Police       |           |      |         |      |     |
| Public Works |           |      |         |      |     |
| Parks        |           |      |         |      |     |
| City Manager |           |      |         |      |     |

\*Recommend approval with the following conditions: \_\_\_\_\_ ☐ If multiple dates, conditional upon successful resolution of any citizen complaints from a similar event

City Council Action: ☐ Approve ☐ Deny Public Hearing Date: \_\_\_\_\_

*City of Riders*

1040 2nd Street, Suite 103  
Sturgis, SD 57785  
www.sturgis-sd.gov



*Cemetery/Parks Dept.*

Voice: (605) 347-9018  
Fax: (605) 720-0644  
sturgisparks@rushmore.com

## Council Report

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|---------------|--|
| Meeting Date: | October 30, 2013   |
| Agenda Item:  | 1. Consideration of Acceptance and Awarding of bid for surplus hay bales from 2013 harvest of Barry Stadium and Marcotte Property to Tance Herrmann for \$2.51 per hay bale. |
| Prepared By:  | Tanya  |

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| Background Information: | Bid opening – Oct. 28, 2013<br><br>Tance Herrmann - \$2.51/hay bale (approx. 1200 hay bales = \$3012.00)<br>Joe Desjarlais - \$3.00/hay bale for only 10 bales (bid was thrown out because of the 10 hay bale limit)                          |
| Cost, Benefit or Risks: | Approx. \$3012.00 income  |
| Budget Impact:          | Bid is \$2.51/hay bale. Count of hay bales is approximately 1200 therefore income would be approximately \$3012.00. However the total amount may vary due to broken hay bales. We will complete a final count before the hay bales are taken. |

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| Recommendation: | Recommendation: accept bid from Tance Herrmann for \$2.51 per hay bale - approximately \$3012.00 |
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| Department Head Approval: | <u>Gene Stock – Parks Director</u><br>Name, Position |
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| Approved: | <u>Dan Ainslie</u><br>Daniel Ainslie, City Manager |
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## Council Report

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| Meeting Date: | November 4, 2013                      |
| Agenda Item:  | First reading, Amendment to Title 12. |
| Prepared By:  | Greg Barnier, City Attorney           |

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| Background Information:          | <p>The changes proposed in this revision to Title 12 are primarily focused on linking the licensing of Sexually oriented performers and premises to the establishment of the AOB Overlay District approved by the Council in the last amendment to Title 18, focused on the uses within the General Industrial zone (GI-1). The following changes are shown in the amended text:</p> <ul style="list-style-type: none"> <li>• A licensed premises must be located within the AOB Overlay District, unless it is a qualifying non-conforming use.</li> <li>• A licensed performer cannot perform in premises outside the AOB Overlay District, unless in a qualifying non-conforming use.</li> <li>• The performer must provide a valid South Dakota sales tax number as part of the application.</li> <li>• The fee for an entertainer license increases to \$500.00.</li> <li>• The fee for a premises license increases to \$2500.00.</li> <li>• A licensed expires 365 days after issued.</li> </ul> |
| Summary of Opposing Viewpoints   | <p>Some might urge the Council to make no change to this ordinance to avoid emphasizing this type of entertainment. However, the City currently has an ordinance in place licensing this type of entertainment. The changes are to make clear the limited nature of a license. There could be objections that changing the license fee is not needed in that these premises already pay their full share of the costs for the Rally. Some might also object to the proposed language requiring proof of a Sales Tax license, or subjection employee tax records to inspection, as unnecessary and an unfair burden.</p>   |
| In support of the recommendation | <p>The increase in license fees, apparently unchanged since 2004, is consistent with the City goal that the costs of the Rally, as they can be identified, should be paid by the businesses and vendors that come to the City to operate their business only during the Rally. Adding a requirement that individual performers must show a valid sales tax</p>  |




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|                                | license as part of the application process is consistent with the city practice of supporting enhanced sales tax collections from transient businesses and temporary vendors. Requiring that premises employee tax records required by the IRS be subject to inspection is consistent with those enhanced tax enforcement goals. Costs of the Rally that are not paid by such license fees are likely to be shifted to payment by property tax revenue.  |
| Analysis of opposing viewpoint | First, to leave the Ordinance unchanged leaves the City relying upon the text of an ordinance that is not clearly tied to the new AOB overlay District for enforcement. In addition, the increase in fees shown in the proposed text applies to fees that appear to be unchanged for 10 years. These proposed changes are consistent with the recent amendment the GC-1 zone of the City Zoning Ordinance, and are also consistent with the goal of enhance and more accurate sales tax enforcement. |
| Budget Impact:                 | Only a very minor budget is expected if the ordinance is approved by the City Council after both public readings.  |

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| Recommendation: | The Ordinance Committee recommends that the first reading of these amendments to Title 12 be approved by the Council at the meeting on November 4, 2013. |
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| Approved: | <br><hr/> Daniel Ainslie, City Manager |
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**ORDINANCE 2013-22**  
**AN ORDINANCE AMENDING TITLE 12– GENERAL NUISANCES**

**BE IT ORDAINED** by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 12–General Nuisances – Chapter 12.11 Regulation of Sexually Oriented Performances and Performers- Section 12.11.04: License Required for premises- Section 12.11.05: License Required for Sexually Oriented Performer-Section 12.11.07: Fees- Section 12.11.10: Expiration of License-Section 12.11.11: Suspension- Section 12.11.12: Revocation- Section 12.11.14: Appeal Process amended to read as follows:

**CHAPTER 12.11**  
**REGULATION OF SEXUALLY ORIENTED PERFORMANCES AND PERFORMERS**

**SECTIONS:**

- 12.11.01: Prohibited Activities on Licensed Premises
- 12.11.02: Contact between Any Performer and Patron
- 12.11.03: Performance in Posted Designated Areas Only
- 12.11.04: License Required for Premises
- 12.11.05: License Required for Sexually Oriented Performer
- 12.11.06: Basis for Denial of License
- 12.11.07: Fees
- 12.11.08: Display of License
- 12.11.09: Inspection
- 12.11.10: Expiration of License
- 12.11.11: Suspension
- 12.11.12: Revocation
- 12.11.13: Liquor or Malt Beverage License
- 12.11.14: Appeal Process
- 12.11.15: Validity in Case of Judicial Declaration

**12.11.04: LICENSE REQUIRED FOR PREMISES**

No person shall operate a business where there is sexually oriented performing without a valid license issued by the Police Department or employ or allow a person to perform on the premises who is not licensed as a sexually oriented performer.

To obtain a business license authorizing sexually oriented performances, the business owner shall make application to the Police Department on a form prescribed and provided by the City. The applicant shall be qualified according to the provisions of this Chapter. The application shall be signed under oath by the applicant and notarized. The application shall include and/or be accompanied by the following information:

- A. The name, telephone number and mailing address of the owner of the business making application;



- B. The name, telephone number and address of the business in which the performing is intended;
- C. If any prior license or permit has been denied, revoked or suspended, the reasons therefore and the effective date of such revocation or suspension;
- D. The name and address of the statutory agent or other agent authorized to receive service of process on behalf of the business;
- E. The name and address of all employees of applicant whose employment duties may include providing entertainment through sexually oriented performances at applicant's premises;
- F. An acknowledgement by the applicant that all state and federal tax records required to be maintained by applicant related to the employment status of any performer licensed under this chapter and performing on premises licensed under this chapter, shall be subject to inspection upon request of law enforcement or Department of Revenue representatives, and
- G. Any other information determined to be necessary and relevant to the application process by the Chief of Police.

The application process shall be forwarded for review by the ~~conducted at~~ the Police Department. It shall be the responsibility of the applicant to contact the Police Department to obtain an appropriate date and time to complete the application process with the Police Department. The applicant shall demonstrate that the proposed premises are in full compliance with Chapter 18.05.13 of the Sturgis Zoning Ordinance, and that the Conditional Use Permit required for such entertainment activities by that provision has been obtained by the applicant. No premises located outside the General Industrial Zone shall be permitted to apply for such a license unless, in the year prior to submitting the application, Applicant was issued a sexually oriented performance premises license for the same premises sought to be licensed under the subsequent application. Any authority to conduct such performances without a Conditional Use Permit or as a prior non-conforming use outside the Industrial zone shall expire 365 days after the last such license was issued. If said applicant meets all qualifications and complies with all requirements of this Chapter, the Police Department shall issue the license within thirty (30) days of the date of the application.

#### **12.11.05: LICENSE REQUIRED FOR SEXUALLY ORIENTED PERFORMER**

No person shall perform as a sexually oriented performer without a valid license.

To obtain a sexually oriented performer license, the applicant shall make application to the Police Department on a form prescribed and provided by the City. The applicant shall be qualified according to the provisions of this Chapter. The applicant will be signed under oath by the applicant and notarized. The application shall include and/or be accompanied by the following information:



- A. The applicant's full, legal name and any other names used in the preceding five (5) years;
- B. Current residential mailing address and telephone number;
- C. Written proof of age, in the form of a birth certificate, current driver's license with picture, or other picture identification document issued by a governmental agency;
- D. If any prior license or permit has been denied, revoked or suspended the reasons therefore, the issuing jurisdiction and the effective date of such revocation or suspension;
- E. Any criminal charges, complaints, information, or indictments in the preceding five (5) years which resulted in a conviction, a plea of guilty, or no contest for any offense described in Chapters 22-22, 22-23, 22-24, of the South Dakota Codified Laws;
- F. Written confirmation that applicant, that is not an employee providing sexually oriented performances at premises licensed under this chapter, has obtained a Temporary Vendor License and a South Dakota Sales Tax license for applicant's performance activities, and
- G. Any other information determined to be necessary and relevant to the application process by the Chief of Police.

The application process shall be conducted at the Police Department. It shall be the responsibility of the applicant to contact the Police Department to obtain an appropriate date and time to complete the application process with the Police Department. If said applicant meets all qualifications and complies with all requirements of this Chapter, the Police Department may issue the license the day the application is completed and all requirements of this Chapter complied with and in no event shall the Police Department wait any longer than thirty (30) days to either issue the license or advise the applicant of the denial of said issuance.

#### **12.11.07: FEES**

The annual, non-refundable application fee for a business allowing sexually oriented performing shall be ~~Twenty –five hundred (\$2500.00) dollars. (\$1500.00) Two Hundred and Fifty Dollars (\$250.00).~~ The annual application fee for a sexually oriented performer shall be ~~Five Hundred (\$500.00) dollars. Three Hundred Dollars (\$300.00). One Hundred Dollars (\$100.00).~~

#### **12.11.10: EXPIRATION OF LICENSE**

Each sexually oriented business license and sexually oriented performer license shall expire on ~~December 31<sup>st</sup> of the year issued or 365 days after the license was issued~~ legal performance on the licensed premises, whichever occurs first, unless and may only be renewed only by making application as provided in this Chapter and complying with the applicable provision of the Conditional Use Permit as set forth in Chapter 18.05.13 of Sturgis City Ordinances.

#### **12.11.11: SUSPENSION**

The Chief of Police shall suspend a business license as herein before set forth for a period not to exceed thirty (30) days if he/she determines that the licensee or an employee of the licensee has:

- A. Refused to allow an inspection of the business premises; or
- B. Has violated any other provision of this Chapter or the applicable provisions of the Conditional Use Permit as set forth in Chapter 18.05.13 of Sturgis City Ordinances.

#### **12.11.12: REVOCATION**

The Chief of Police shall revoke the license of a business allowing sexually oriented performing if a cause for suspension set forth in the previous section occurs and the license has been suspended in the previous twelve (12) months.

The Chief of Police shall revoke the license of a business allowing sexually oriented performing if it is determined that:

- A. The licensee gave false or misleading information in the application;
- B. The licensee or an employee has knowingly allowed possession, use, or sale of controlled substances on the premises;
- C. The licensee or an employee has knowingly allowed prostitution on the premises;
- D. The licensee has allowed a sexually oriented performer to perform on the premises without having obtained a sexually oriented performer's license as required by this Chapter;
- E. The licensee or an employee knowingly operated the business during a period of time when the licensee's license was suspended;
- F. The licensee has been convicted of an offense set forth in SDCL 22-22, 22-34, or 22-24;



- G. The licensee or an employee has knowingly allowed any act of sexual activity to occur on the licensed premises;
- H. The licensee is delinquent in payment to the City taxes or fees related to the business or arising out of any other business activity owned or operated by the licensee and licensed by the City; or
- C. The licensee has allowed sexually oriented performing to occur on its premises in a manner that is in violation of this Chapter or the applicable provisions of the Conditional Use Permit as set forth in Chapter 18.05.13 of Sturgis City Ordinances and has failed and/or refused to immediately eliminate the violation.

#### 12.11.14: APPEAL PROCESS

Any person aggrieved by a decision of the Chief of Police made under this Chapter shall be entitled to have said decision reviewed by the ~~City Manager~~ Chief of Police. If after review the said person is unsatisfied, he or she may appeal the decision of the ~~City Manager~~ to the City Council. The process shall be as follows:

- A. An aggrieved person shall first file a written request for review with the ~~City Manager at the City Finance Office~~ Police Department setting forth the basis for which he or she believes the Chief of Police's decision to be in error. The writing shall also include the person's name and mailing address.
- B. Upon receipt of a written request for review, the ~~City Manager~~ Chief of Police shall review ~~his or her~~ the decision of the Chief of Police and mail a written response to the aggrieved person within five (5) days.
- C. If the aggrieved person is not satisfied with the decision of the ~~City Manager~~ Chief of Police following review, he or she may file a notice of appeal with the ~~City Finance Office~~ within five (5) days of mailing the review decision by the ~~City Manager~~. Police Department.
- D. Upon receipt of a notice of appeal, the ~~City Finance Office~~ Police Department shall ~~set a public hearing on the appeal at a regularly scheduled City Council meeting of notify the City Council~~ and a the public hearing shall be held within thirty (30) days after the date said appeal was filed. The City Council shall provide notice to the person specifying the time, date, and location of the hearing.
- E. The City Council may ~~informally~~ notify the aggrieved person of its decision following the hearing; however, the City Council shall issue a written decision to the person within twenty (20) days of the hearing. The City Council may affirm or reverse the decision of the ~~City Manager~~ Chief of Police.

Dated this \_\_\_\_\_ day of November, 2013.

CITY OF STURGIS

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Mark Carstensen, Mayor

ATTEST:

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Fay Bueno  
Finance Officer

First reading:  
Second reading:  
Adopted:  
Published:  
Effective:



## Council Report

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|---------------|---------------------------------------|
| Meeting Date: | November 4, 2013                      |
| Agenda Item:  | First reading, Amendment to Title 31. |
| Prepared By:  | Greg Barnier, City Attorney           |


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| Background Information:        | <p>The changes proposed in this revision to Title 31 are designed to provide more explanation of the changes to the Temporary Vendor License fee modified by the changes to title 31 earlier this year. In place of a “base” rate plus an amount for each square foot of vending area, the revised fee structure establishes five separate “bands” of vending area with a separate fee for each general size. While maintaining the smallest size fee at \$566.00 dollars, the largest areas will pay a reduced fee of \$1500.00, not the \$2480.00 called for under the earlier text. The proposed fee bands are:</p> <ul style="list-style-type: none"> <li>*For up to 100 square feet, the combined license fee and Special Sanitation charge is \$560.00.</li> <li>*For 101 to 400 square feet, the combined license fee and Special Sanitation charge is \$850.00.</li> <li>* For 401 to 800 square feet, the combined license fee and Special Sanitation charge is revised fee is \$1000.00.</li> <li>* For 801 to 1200 square feet, the combined license fee and Special Sanitation charge is \$1200.00.</li> <li>* For 1201 to 1500 square feet, the combined license fee and Special Sanitation charge is \$1500.00.</li> </ul> <p>In making the proposed changes, the Ordinance Committee seeks to demonstrate that the Council is giving consideration to some of the objections raised by Vendors complaining about the increase in the fee amount put in place by the Council for the 2014 Rally. The changes in the fee amounts are still designed, however, to ensure that those costs which the City Budget identifies as costs associated with hosting the Rally are paid by the temporary businesses and vendors that make their living serving the tourist business that comes to the community during the Rally period.</p> |
| Summary of Opposing Viewpoints | <p>Some might urge the Council to keep the current fee structure and not introduce any more change, even one that reduces the increase already in place for the largest vendors. Others might object to the 5 levels of fees as too complicated, or they might object that having property owners provide a map of the area on which vending activities will be located is an unfair</p>  |

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|                                  | burden to place on a landowner that lease space to vendors.   |
| In support of the recommendation | One of the primary purposes of these revisions to Title 31 is to respond to vendor and property owner complaints with a system that is easier to apply to a vendor without a scale map of each and every vending activity located on the property. The revisions proposed will also keep in place the reduction in fee for the smallest vendors, while making it easier for other vendors to estimate and budget for the cost of their fee before they arrive in Sturgis for the Rally. For the City, the mapping information will make planning for public services during the Rally easier. That should provide the City more detailed information beforehand about where the greatest areas of need for special sanitation services and law enforcement services are likely to be. |
| Analysis of opposing viewpoint   | First, to leave the Ordinance unchanged leaves the City relying upon the text of an ordinance that sets rates higher but also is more complicated to calculate and enforce. Second, without the assistance of the location information provided by the property owner mapping, enforcement efforts to ensure that all licensees pay the correct amount will be more difficult. Third, planning for the most cost effective means to provide Rally sanitation and law enforcement services will be enhanced by having the information provided by the property map requirement.  |
| Budget Impact:                   | The budget impact of this revised vendor fee schedule is expected to be generally revenue neutral. That is, if the number and type of Rally vendors in 2014 is the same as those that obtained licenses in 2013, the gross revenue generated should be roughly the same. The revised fee "bands" as proposed is expected to keep vendor license inspection costs at 2013 levels or less. The associated overtime "budget" for the staff in the Finance Office is expected to be at 2013 levels or slightly less.  |

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| Recommendation: | The Ordinance Committee recommends that the first reading of these amendments to Title 31 be approved by the Council at the meeting on November 4, 2013. |
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| Approved: | <br>Daniel Ainslie, City Manager |
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## **ORDINANCE 2013-23**

### **AN ORDINANCE AMENDING TITLE 31– LICENSING OF TEMPORARY BUSINESSES**

**BE IT ORDAINED** by the Common Council of the City of Sturgis, Meade County, South Dakota that Title 31–Licensing of Temporary Businesses – Chapter 31.01 – General Provisions- 31.01.02 – Definitions; 31.01.03- Penalty; Chapters 31.02- Licensing and Regulation of Peddlers, Vendors, Solicitors, Professional People, Businesses and Trades- Section 31.02.03 - Licensing of Transient Professional People and Merchants- Section 31.02.03.01- Vendor License Required- 31.02.03.02- Application- 31.02.03.03- Fee and Duration of License- 31.02.03.5- Exemptions from the Temporary Vendor License Fee- 31.02.03.7 Required Documentation of Sales Activities is amended to read as follows:

### **TITLE 31 LICENSING OF TEMPORARY BUSINESSES**

#### **CHAPTERS:**

31.01: General Provisions

31.02: Licensing and Regulation of Peddlers, Vendors, Solicitors, Professional People, Businesses and Trades

#### **CHAPTER 31.01 GENERAL PROVISIONS**

#### **SECTIONS:**

31.01.01: Scope and Purpose

31.01.02: Definitions

31.01.03: Penalty

#### **31.01.01: SCOPE AND PURPOSE**

The purpose of Title 31 is to regulate the licensing of people who do not have a permanent business within the City of Sturgis who wish to do business within the City of Sturgis for a temporary period of time.

#### **31.01.02: DEFINITIONS**

**VENDING AREA:** The area containing vending and all vending related activities, including all the area occupied by a retail area, equipment, inventory, transportation equipment and related infrastructure.

#### **31.01.03: PENALTY**

A violation of this ordinance shall be punishable by a civil penalty of 80% of the combined cost of a Temporary Vendor License and the Special Sanitation Fee, plus a separate administrative fee of \$75.00, to be paid before the Temporary Vendor License can be issued. To avoid additional civil penalty fees for each separate day of operation violation of this ordinance, the vender shall be required to obtain a valid Temporary Vendors License from the City Finance Office within 12 hours of the issuance of the Citation. **No right to appeal this penalty to the City Council shall exist until the full payment of the penalty assessed against the Temporary Vendor has been paid to the City and verified by the Finance Office. Any Temporary Vendor exercising the right to appeal this penalty provision may appear in person at the time of the public hearing before the Council, or may be represented by a licensed attorney. In addition to statements by the Temporary Vendor during**



such public hearing, the Council shall consider and determine the credibility of any written material submitted to the Council in regard to the appeal prior to the close of the public hearing.

Any temporary vendor found to be operating without a Temporary Vendor License and Special Sanitation Fee twice within a 24 month period shall be prohibited from obtaining a Temporary Vendor License in the future unless the Temporary Vendor License application is accompanied by combined payment of the administrative penalty and administrative fee set forth in the preceding paragraph, for each separate violation of this ordinance.

Any person or entity who is required to obtain a Temporary Vendor License and Special Sanitation Fee and who knowingly allows an unlicensed vendor to conduct or engage in business on property they own or which is subject to their control shall be prohibited from obtaining a Temporary Vendor License for a period of 400 days after the date of violation.

In addition to the civil penalty and administrative fee set forth above, a violation of this Title is a Class 2 Misdemeanor, punishable by the maximum punishment set forth by the laws of the State of South Dakota pursuant to SDCL 22-6-2.

In addition, any violation of the provisions of this Title may result in the revocation and/or suspension of any license issued pursuant to any Section of this Title.

### **31.02.02: PEDDLING IN PARKS**

It shall be unlawful for any peddler or other person excepting a person occupying a portion of the park under a valid concession agreement to sell or offer to sell, to any person within any municipal park of the City, any goods, wares, merchandise, books, pictures, novelties, souvenirs or trinkets or any other article of commerce and trade, including goods of his own production or manufacture.

### **31.02.03: LICENSING OF TRANSIENT PROFESSIONAL PEOPLE AND MERCHANTS**

#### **31.02.03.01 Vendor License Required**

Any firm, person, or corporation which intends to operate a temporary business within the corporate limits of the City of Sturgis in conjunction with an event of more than four (4) consecutive days within any ~~ten (10) twelve (12)~~ day time span shall be required to purchase a vendor license for each structure, stand, tent, vehicle, booth, location or place which is used by such merchant for the sale or distribution of goods. The person so engaged shall not be relieved from the provisions of this Section by reason of association with any local operating business, dealer, trader, merchant or auctioneer, or by conducting such temporary or transient business in connection with or as a part of or in the name of any local dealer, trader, merchant, auctioneer or business.

The vendor license must be posted in each individual vendor location during operation.

#### **31.02.03.02 Application**

To obtain a license, a vendor shall file, in the office of the City Finance Officer, a verified application stating his or her name, and residence, description and identification of the place



in which he or she proposes to do business, dates of operation, name, address, phone number and e-mail address of property owner where business will take place and, the description of the goods he or she intends to handle. Applicant's South Dakota State sales tax number shall be included as part of the application, and any application submitted without a valid Sales Tax license number will not be processed for issuance of a temporary vendor license. A South Dakota State Department of Health license, when required for applicant's business, shall also be presented at the time of application.

#### 31.02.03.02 Property Vending Map

Starting January 1, 2014—~~all~~ any property owners seeking to place temporary vendors licensed under this Title on property zoned GC-1, HS-1, RV (14 day only), Public Land or Fairgrounds, shall submit to the City Finance Office ~~property~~ 8 1/2 x 11 scale map of the ~~potential vending area~~ based on the parcel ID number for the subject property as established by the Meade County Equalization Office showing the dimensions of the potential vending area to be licensed and ~~shall submit a map of the proposed vendor configuration, together with a filing fee of \$0.015 per square foot of the entire parcel. of the parcel in which vending will occur.~~ After April 1 of each year, the vending parcel scale map filing fee shall increase to \$0.02 per square foot of the entire parcel, and after June 30 the potential vending area scale map filing fee shall be \$0.025 per square foot of the entire parcel.

Each applicant for a temporary vendor license shall submit a file-stamped copy of a scale map for the property parcel upon which the applicant proposes to operate if licensed. ~~proposed to this map,~~ The applicant shall include with the application material written confirmation that the property owner, a designated representative of the owner as on file with the City Finance Office, knows the applicant is seeking a temporary vendor license to operate on a parcel owned by the property owner. ~~n acknowledged by the property owner or his/her representative, along with the temporary vendor permit application.~~ The file stamped map copy ~~map~~ submitted by the applicant ~~temporary vendor~~ shall ~~indicate~~ show the dimensions and location of the area applicant seeks to have licensed for temporary vending. ~~proposed the vendor area location.~~

#### 31.02.03.04 Fee and Duration of License

- A) A temporary business shall pay a Temporary Vendor License fee based on location and size of the overall vending area as set forth below together with the ~~and a~~ Special Sanitation Fee at the rate established and required by Title 11 of Sturgis City Ordinances for each ~~twelve (12)~~ ten (10) consecutive day period, or portion thereof, in any calendar year. The combined fee shall be paid at the Finance Office at the time the application is submitted for approval. The Finance Officer shall note on the license the time period for which it is effective. A business may purchase only two (2) vendor licenses per location per twelve (12) month period.
- B) The total required payment for the temporary vendor fee and special sanitation fee is as follows:
1. Vending area of 100 square feet or less, \$560.00
  2. Vending area of 101 to 400 square feet, \$850.00
  3. Vending area of 401 to 800 square feet, \$1000.00
  4. Vending area of 801 to 1200 square feet or less, \$1200.00
  5. Vending area of more than 1200 square feet, \$1500.00



Each vending area separated by a distance of three (3) feet or more from another vending area shall be subject to a separate license fee.

#### 31.02.03.05 Issuance

On filing the application and payment of the fee described in this section, the Finance Officer shall issue a license to the applicant to do business at a place described in the application and for the time for which the license fee has been paid in advance. Any applicant that has had their license issued who subsequently changes location and submits an amended application to show that change shall be charged a supplemental administrative fee of \$100.00 to obtain an amended license. Any vendor that changes location without obtaining an amended license as provided herein shall be subject to the penalty provisions set forth at section 31.01.03 of this Ordinance. This supplemental administrative fee shall also apply to organizations which are exempt from the Temporary Vendor License fee but are subject to the Special Sanitation fee imposed by ordinance 11.03.21.

31.02.03.06 Exemptions from the Temporary Vendor License Fee: All Sale, display, marketing or similar activities that are not specifically described within the following definitions shall not qualify for an exemption from the Temporary Vendor License fee.

A) Sales where the applicant has demonstrated by verifiable documentation that the proceeds are to be used exclusively for religious, charitable or benevolent purposes. Written proof of such religious, charitable, or benevolent non-profit status as declared by the IRS (i.e. 501(c) (3) documentation) and compliance with the notice provisions of SDCL 22-25-25(6) when required, must be presented when the application is submitted.

B) Sales to wholesale or retail merchants, by sample, for future delivery made by representatives or established wholesalers or manufacturers.

C) The sales of fruits, vegetables or farm or garden products in their natural state.

D) Sales by youth age 15 years and under, selling lemonade and like items and incidentals thereto from property from which they reside, shall be exempt from the Temporary Vendor License and Special Sanitation fees.

E) Parking lots on private property, when Vendor License application states that parking of vehicles is the only sales or marketing activity to be conducted on the premises identified in the Vendor application, shall be exempt from the Temporary Vendor License and Special Sanitation fees.

#### 31.02.03.07 Refund Fee for Transient Merchant License

The City of Sturgis is hereby authorized to refund up to 50% of a Temporary Vendor License fee, provided that written notice from the applicant requesting that the license be cancelled is received at the City Finance Office ten (10) days prior to the official start day of the event.

### 31.02.03.08 Required Documentation of Sales Activities

It is the responsibility of the Transient Merchant to record the amount of sale and applicable sales tax at the point of sale immediately upon completion of the sales transaction. Evidence of this recording shall be provided to representatives of the South Dakota Department of Revenue or the City of Sturgis upon request. Transient Merchants shall be required to provide complete sales records to the City of Sturgis upon request. A violation of this provision shall follow the penalties described in Section 31.01.03.

Dated this \_\_\_\_\_ day of November, 2013.

CITY OF STURGIS

\_\_\_\_\_  
Mark Carstensen, Mayor

ATTEST:

\_\_\_\_\_  
Fay Bueno  
Finance Officer

First reading:  
Second reading:  
Adopted:  
Published:  
Effective:

*City of Riders*

1040 2nd Street, Suite 103  
Sturgis, SD 57785  
www.sturgis-sd.gov



*Finance Office*

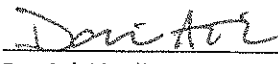
Voice: (605) 347-4422  
Fax: (605) 347-4861  
fayb@sturgisgov.com

## Council Report

|               |   |
|---------------|---|
| Meeting Date: | November 4, 2013  |
| Agenda Item:  | Consideration for approval of first reading of 2013-21 – Supplemental appropriation for 2013 budget |
| Prepared By:  | Fay Bueno   |

|                                  |  |
|----------------------------------|--|
| Background Information:          | This will supplement the 2013 budget for <b>General Fund</b> : Planning and Permitting – Liquor Store sign and State electrical fees from Rally - \$35,000, source of funding – proceeds from rental of sign and unexpended cash balances. Rally Department – Brick Project expense and copier - \$10,000, source of funding – unexpended cash balances. <b>Capital Improvements</b> : Streets- 7 <sup>th</sup> Street Bridge - \$135,000; Airport - \$3,065; Community Center – pool equipment - \$116,500; Parks – Titan Field Concession - \$61,000; Auditorium - Floor - \$3,000, source of funding – unexpended cash balances |
| Differing Viewpoints             | NA   |
| In support of the recommendation | NA   |
| Analysis of opposing viewpoint   | NA   |
| Budget Impact:                   | The ordinance is necessary to comply with SDCL 9-21-9, so that we do not exceed budget amounts.  |

|                 |            |
|-----------------|------------|
| Recommendation: | Do Approve |
|-----------------|------------|

|           |   |
|-----------|---|
| Approved: | <br>Daniel Ainslie, City Manager |
|-----------|---|



**ORDINANCE 2013-21**

**AN ORDINANCE AMENDING ORDINANCE NO. 2012-15  
ANNUAL APPROPRIATIONS FOR THE YEAR 2013  
OF THE CITY OF STURGIS, MEADE COUNTY, SOUTH DAKOTA**

BE IT ORDAINED by the Common Council of the City of Sturgis, Meade County, South Dakota, that ordinance 2012-15 is amended so that the following amounts are hereby appropriated to meet the obligation of the municipality for the year 2013.

|  |           |
|--|-----------|
| General Fund 101   |           |
| 4196-4370 Planning and Permitting – Capital Improvements                     | \$35,000  |
| Source of Funding: Proceeds from rental of sign and unexpended cash balances |           |
| General Fund 101   |           |
| 4198- 4220 Professional Service – Brick Project                              | \$10,000  |
| Source of Funding: Unexpended Cash balances                                  |           |
| Capital Improvements 212   |           |
| 4311- 4370 Capital Improvement – 7 <sup>th</sup> Street Bridge               | \$135,000 |
| Source of Funding: Unexpended Cash balances                                  |           |
| 4350- 4370 Capital Improvements – Airport                                    | \$3,065   |
| Source of Funding: Unexpended Cash balances                                  |           |
| 4511-4370 Capital Improvements- Community Center Equipment                   | \$116,500 |
| Source of Funding: Unexpended Cash balances                                  |           |
| 4520-4370 Capital Improvements-Concession at Titan Field                     | \$61,000  |
| Source of Funding: Unexpended Cash balances                                  |           |
| 4560-4370 Capital Improvements – Auditorium Floors                           |           |
| Source of Funding – Unexpended Cash balances                                 | \$3000    |

Adopted this 2nd day of December, 2013.

City of Sturgis

\_\_\_\_\_  
Mark Carstensen, Mayor

ATTEST:

\_\_\_\_\_  
Fay Bueno, Finance Officer

First reading: 11-18-13

Second reading: 12-02-13

Adopted:

Published:

Effective:

Fay Bueno, Finance Officer



